

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Alan Schwartz) MUR. 5187
AMS Consulting Services, LLC)
aka Asset Management Systems, LLC)

CONCILIATION AGREEMENT

This matter was initiated by a Complaint filed with the Federal Election Commission ("Commission") by Mattel, Inc. See 2 U.S.C. § 437g(a)(1). The Commission found reason to believe Alan Schwartz and AMS Consulting Services, LLC aka Asset Management Systems ("AMS") knowingly and willfully violated 2 U.S.C. § 441f.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:
 - I. Alan Schwartz is the sole proprietor of AMS Consulting Services, LLC aka Asset Management Systems (hereinafter referred to as "AMS"), which has its office in Torrance, California.

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2. Mattel, Inc. is a Delaware corporation with headquarters in El Segundo, California.

3. Fermin Cuza is a former Senior Vice President of Mattel who was in charge of Mattel's International Trade and Worldwide Government Affairs, supervised the Consumer Affairs Department and oversaw Mattel's Customs department. He held this position from June 1997 to March 2001.

4. Beginning in 1996, at Mr. Cuza's direction, Mattel, Inc. made payments to AMS for various consulting services and for other purposes.

5. 2 U.S.C. § 441f prohibits: (1) making a contribution in the name of another; (2) knowingly permitting one's name to be used to effect such a contribution; and (3) knowingly accepting such a contribution. In addition, no person may knowingly help or assist any person in making a contribution in the name of another. 2 U.S.C. § 441f, 11 C.F.R. § 110.4(b)(1)(iii). This prohibition also applies to any person who provides the money to others to effect contributions in their names. 11 C.F.R. § 110.4(b)(2).

6. The Act addresses violations of law that are knowing and willful. See 2 U.S.C. §§ 437g(a)(5)(B) and 437g(d). The phrase "knowing and willful" indicates that "actions [were] taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976).

7. Mr. Schwartz, via AMS, submitted two types of invoices for payment by Mattel, Inc. The first type were monthly invoices for his consulting services, which were submitted directly to Mattel, and paid directly by Mattel. Invoices of the second type were submitted to and paid by Laxmi, a California corporation which provides a bill-paying service for Mattel. With regard to invoices submitted by AMS to Laxmi, in most instances, Mr. Cuza would

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approve the AMS invoices and then forward them to Laxmi. Laxmi would then pay AMS, and in turn seek reimbursement from Mattel through the automatic payment system.

8. Mr. Schwartz made political contributions to federal candidates for which he received reimbursement from Mattel through payments to AMS through Laxmi.

9. Mr. Schwartz caused AMS to generate invoices which were the means by which several individuals were reimbursed by Mattel for political contributions. Upon receipt of those payments from Mattel, AMS and Mr. Schwartz would remit the funds back to Mr. Cuza and/or other individuals. Between 1996 and 2000, \$120,714 in reimbursed contributions were made to federal political committees by Mr. Fermin Cuza, Mrs. Ines Cuza, the Cuzas' daughter Tammy Orozco, the Cuzas' son-in-law Frank Orozco, Jacqueline Balestra, John Balestra, Sheryl Green, Gloria Zwinak, Katherine Walker, Frank Gomez, Ella Schwartz, Mr. Schwartz, and Kathleen Wilcox, formerly known as Kathleen Schwartz. The reimbursements were made through payments from Mattel to AMS that were conveyed through Laxmi. Mr. Schwartz and/or AMS would remit to Mr. Cuza the reimbursements for those contributions made by Mr. and Mrs. Cuza, and Mr. and Mrs. Orozco. Mr. Schwartz and/or AMS would remit reimbursements directly to the other individuals named above for federal political contributions.

10. In addition to the contributions reimbursed by Mattel listed above, Mr. Schwartz reimbursed Anthony Willoughby and Carol Aminoff for at least \$3,500 in political contributions Mr. Willoughby and Ms. Aminoff made to federal committees in 2000.

11. Mr. Schwartz made \$57,650 in political contributions in his own name to the federal committees indicated on the dates provided, for which he received reimbursement from Mattel through payments to AMS:

06/05/1996

Gephardt in Congress

\$500

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| | | |
|------------|--------------------------------------|---------|
| 10/03/1996 | New Democratic Majority | \$2,000 |
| 04/01/1997 | Gephardt in Congress | \$1,500 |
| 04/21/1997 | Friends of Jane Harman | \$2,000 |
| 06/13/1997 | Menendez for Congress | \$1,000 |
| 08/14/1997 | Becerra for Congress | \$2,000 |
| 11/14/1997 | Sanchez for Congress | \$1,000 |
| 11/17/1997 | Gephardt in Congress | \$500 |
| 12/04/1997 | Friends of Lois Capps | \$1,000 |
| 12/09/1997 | Committee to Reelect Loretta Sanchez | \$500 |
| 12/11/1997 | Friends of Barbara Boxer | \$1,000 |
| 01/19/1998 | Juanita Millender McDonald | \$500 |
| 02/18/1998 | Shelley Berkeley for Congress | \$1,000 |
| 02/18/1998 | Friends of Lois Capps | \$250 |
| 02/18/1998 | Boxer for Senate | \$150 |
| 02/25/1998 | Boswell for Congress | \$500 |
| 03/04/1998 | Committee to Reelect Loretta Sanchez | \$500 |
| 04/23/1998 | Sherman for Congress | \$1,000 |
| 04/23/1998 | Casso for Congress | \$1,000 |
| 04/23/1998 | Barry Gordon for Congress | \$1,000 |
| 04/28/1998 | Committee to Reelect Loretta Sanchez | \$2,000 |
| 05/01/1998 | Diaz-Balart for Congress | \$2,000 |
| 06/19/1998 | Effective Government Committee | \$1,000 |
| 07/28/1998 | Leadership '98 | \$1,000 |
| 08/14/1998 | Friends of Barbara Boxer | \$250 |
| 09/01/1998 | Barry Gordon for Congress | \$250 |
| 10/14/1998 | Effective Government Committee | \$2,500 |
| 02/10/1999 | Gore 2000 Inc. | \$1,000 |
| 02/17/1999 | Feinstein 2000 | \$1,000 |
| 04/06/1999 | Schiff for Congress | \$500 |
| 04/09/1999 | Effective Government Committee | \$2,500 |
| 06/30/1999 | Democratic Congressional Campaign | \$5,000 |
| 09/28/1999 | Schiff for Congress | \$500 |
| 10/06/1999 | Schiff for Congress | \$1,000 |
| 11/23/1999 | Democratic Leader's Victory Fund | \$2000 |
| 11/23/1999 | Gephardt in Congress | \$1,000 |
| 12/22/1999 | Solis for Congress | \$250 |
| 01/25/2000 | Friends of Jane Harman | \$1,000 |
| 01/25/2000 | Friends of Jane Harman | \$1,000 |
| 06/09/2000 | Effective Government Committee | \$5,000 |
| 08/28/2000 | DNC Services Corp/Dem. Nat'l Comm. | \$5,000 |
| 08/30/2000 | DNC Services Corp/ Dem. Nat'l Comm | \$2,000 |
| 11/13/2000 | Lincoln Diaz-Balart for Congress | \$1,000 |

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12. Mr. Schwartz and AMS made payments to reimburse Fermin Cuza for the following \$29,064 in political contributions that Mr. Cuza made to federal committees, for which Mr. Schwartz and AMS received reimbursement from Mattel:

| | | |
|------------|---------------------------------------|---------|
| 04/11/1997 | Gephardt in Congress Committee | \$1,500 |
| 05/09/1997 | Toricelli for U.S. Senate, Inc. | \$1,000 |
| 06/23/1997 | Menendez for Congress | \$2,000 |
| 09/23/1997 | Becerra for Congress | \$1,000 |
| 11/26/1997 | Committee to Re-Elect Loretta Sanchez | \$1,000 |
| 12/01/1997 | Effective Government Committee | \$1,500 |
| 12/03/1997 | Gephardt in Congress | \$500 |
| 12/17/1997 | Friends of Barbara Boxer | \$1,000 |
| 12/22/1997 | Friends of Lois Capps | \$500 |
| 01/13/1998 | Friends of Barbara Boxer | \$1,000 |
| 03/16/1998 | Bob Filner for Congress | \$1,000 |
| 05/02/1998 | Lincoln Diaz-Balart for Congress | \$2,000 |
| 07/31/1998 | Leadership '98 | \$2,500 |
| 09/09/1998 | Hahn for Congress | \$500 |
| 10/13/1998 | Committee to Re-Elect Loretta Sanchez | \$500 |
| 10/21/1998 | Ros-Lehtinen for Congress | \$564 |
| 10/26/1998 | Leadership of Today and Tomorrow | \$5,000 |
| 10/30/1998 | Hahn for Congress | \$500 |
| 02/10/1999 | Gore 2000, Inc. | \$1,000 |
| 06/30/1999 | Gore/Lieberman GELAC Fund | \$1,000 |
| 11/21/1999 | Becerra for Congress | \$1,000 |
| 12/22/1999 | Solis for Congress | \$250 |
| 03/07/2000 | Friends of Jane Harman | \$1,000 |
| 03/07/2000 | Friends of Jane Harman | \$1,000 |
| 03/30/2000 | Kuykendall Congressional Committee | \$250 |

13. Mr. Schwartz and AMS made payments to reimburse Fermin Cuza for the following \$10,000 in political contributions that Ines Cuza made to federal committees, for which Mr. Schwartz and AMS received reimbursement from Mattel:

| | | |
|------------|---------------------------------------|---------|
| 04/11/1997 | Gephardt in Congress | \$1,500 |
| 09/23/1997 | Becerra for Congress | \$1,000 |
| 05/02/1998 | Lincoln Diaz-Balart for Congress | \$2,000 |
| 05/19/1998 | Committee to Re-Elect Loretta Sanchez | \$2,000 |
| 10/30/1998 | Hahn for Congress | \$500 |
| 06/30/1999 | Gore/Lieberman GELAC Fund | \$1,000 |

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| | | |
|------------|------------------------|---------|
| 03/07/2000 | Friends of Jane Harman | \$1,000 |
| 03/07/2000 | Friends of Jane Harman | \$1,000 |

14. Mr. Schwartz and AMS made payments to reimburse Fermin Cuza for the following \$2,000 in political contributions that Tammy Orozco made to federal committees, for which Mr. Schwartz and AMS received reimbursement from Mattel:

| | | |
|------------|------------------------|---------|
| 06/30/1997 | Friends of Jane Harman | \$1,000 |
| 06/30/1997 | Friends of Jane Harman | \$1,000 |

15. Mr. Schwartz and AMS made payments to reimburse Fermin Cuza for the following \$2,000 in political contributions that Frank Orozco made to federal committees, for which Mr. Schwartz and AMS received reimbursement from Mattel:

| | | |
|------------|------------------------|---------|
| 06/30/1997 | Friends of Jane Harman | \$1,000 |
| 06/30/1997 | Friends of Jane Harman | \$1,000 |

16. Mr. Schwartz and AMS made payments to reimburse John Balestra for the following \$5,000 in political contributions that Mr. Balestra made to federal committees, for which Mr. Schwartz and AMS received reimbursement from Mattel:

| | | |
|------------|--------------------------|---------|
| 07/01/1996 | Friends of Jane Harman | \$1,000 |
| 03/03/2000 | Friends of Jane Harman | \$1,000 |
| 03/03/2000 | Friends of Jane Harman | \$1,000 |
| 10/23/2000 | DNC Services Corporation | \$2,000 |

17. Mr. Schwartz and AMS made payments to reimburse Jacqueline Balestra for the following \$2,000 in political contributions that Ms. Balestra made to federal committees, for which Mr. Schwartz and AMS received reimbursement from Mattel:

| | | |
|------------|------------------------|---------|
| 03/03/2000 | Friends of Jane Harman | \$1,000 |
| 03/03/2000 | Friends of Jane Harman | \$1,000 |

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23. Mr. Schwartz and AMS received reimbursement from Mattel for the following \$4,500 in political contributions that Kathleen Wilcox (formerly Kathleen Schwartz) made to federal committees:

| | | |
|------------|------------------------|---------|
| 07/12/1996 | Friends of Jane Harman | \$1,000 |
| 04/11/1997 | Gephardt for Congress | \$1,000 |
| 04/11/1997 | Gephardt for Congress | \$500 |
| 05/12/1997 | Friends of Jane Harman | \$1,000 |
| 05/12/1997 | Friends of Jane Harman | \$1,000 |

24. Mr. Schwartz also made payments to reimburse Anthony Willoughby and Carol Aminoff for at least the following \$3,500 in political contributions that Mr. Willoughby and Ms. Aminoff made to federal committees:

Anthony Willoughby

| | | |
|------------|--------------------------------------|---------|
| 05/11/2000 | Hillary Rodham Clinton for US Senate | \$1,000 |
|------------|--------------------------------------|---------|

Carol Aminoff

| | | |
|------------|--------------------------------------|---------|
| 06/12/2000 | New York Senate 2000 | \$1,000 |
| 06/12/2000 | Hillary Rodham Clinton for US Senate | \$1,000 |
| 10/10/2000 | Hillary Rodham Clinton for US Senate | \$500 |

25. Mr. Schwartz cooperated with the Commission in its investigation.

V. Respondents knowingly and willfully violated 2 U.S.C. § 441f by allowing Mr. Schwartz's name to be used to make contributions in the name of another, by making contributions in the name of another and by assisting Mattel, Inc. and Mr. Cuza in making contributions in the name of another.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of one hundred ninety-five thousand dollars (\$195,000), pursuant to 2 U.S.C. § 437g(a)(5)(B). The first installment of \$95,000 will be paid within thirty days from the date this agreement becomes effective as provided in Section IX hereof. The second installment of

\$100,000 will be paid no later than January 2, 2003. Respondents will cease and desist from violating 2 U.S.C. § 441f. Further, Respondent Alan Schwartz will waive his right to a refund of all political contributions from the recipient committees and will instruct each recipient to disgorge all illegal contributions referenced in this agreement that have not been previously refunded or disgorged to the U.S. Treasury.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

12/3/02
Date

BY: Rhonda J. Vording
Rhonda J. Vording
Associate General Counsel

FOR THE RESPONDENTS:

Alan M. Schwartz
Alan M. Schwartz

11.12.02
Date

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